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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-937]

Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of the First Administrative Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On June 10, 2011, the Department of Commerce ("Department") published the preliminary results of the first administrative review of the antidumping duty order on citric acid and certain citrate salts ("citric acid") from the People's Republic of China ("PRC"), covering the period November 20, 2008, through April 30, 2010. See Citric Acid and Certain Citrate Salts from the People's Republic of China: Preliminary Results of the First Administrative Review of the Antidumping Duty Order; and Partial Rescission of Administrative Review, 76 FR 34048 (June 10, 2011) ("Preliminary Results"). We invited interested parties to comment on our Preliminary Results. Based on our findings from on-site verifications and analysis of the comments received, we made certain changes to our margin calculations for the respondents. The final dumping margins for this review are listed in the "Final Results of the Review" section below.

EFFECTIVE DATE: [insert date of publication in the Federal Register].

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SUPPLEMENTARY INFORMATION:

Background

On June 10, 2011, the Department published the Preliminary Results of the first administrative review of the antidumping duty order on citric acid from the PRC. On June 30, 2011, both respondents, RZBC Co., Ltd., RZCB Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. (collectively “RZBC”) and Yixing Union Biochemical Co., Ltd. (“Yixing Union”), submitted surrogate value comments. On July 20, 2011, the Department released a Memorandum to the File, titled “First Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People’s Republic of China: Industry-Specific Surrogate Wage Rate and Surrogate Financial Ratio Adjustments,” dated July 20, 2011 (“Wage Rate Memorandum”), for use in these final results. On June 30, 2010, both RZBC and Yixing Union submitted surrogate value comments. On August 3, 2011, Petitioners submitted comments on the industry-specific surrogate wage rate methodology and offered an alternative source to value the wage rate.¹ On August 4, 2011, the Department published a notice in the Federal Register fully extending the time limit for the final results of review by the full 60 days allowed under section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”), to December 7, 2011.²

In preparation for verification, the Department issued supplemental questionnaires to RZBC and Yixing Union on August 8, 2011. Yixing Union submitted its supplemental questionnaire response, with an updated factor of production (“FOP”) database, on August 23, 2011. RZBC submitted its supplemental questionnaire response, with updated U.S. sales and

¹ Petitioners are Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Americas LLC.

² See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review, 76 FR 47146 (August 4, 2011).

FOP databases, on August 24, 2011. From August 29, 2011, to September 2, 2011, and from September 5, 2011, to September 9, 2011, the Department conducted on-site verifications of RZBC and Yixing Union, respectively. On October 12, 2011, RZBC, Yixing Union, Petitioners, and the Government of the People's Republic of China, Ministry of Commerce, Bureau of Fair Trade for Imports and Exports, submitted case briefs. RZBC, Yixing Union, and Petitioners submitted rebuttal briefs on October 18, 2011.

Period of Review

The period of review ("POR") is November 20, 2008, through April 30, 2010.

Scope of the Order

The scope of the order includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of the order also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of the order does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product. The scope of the order includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate

and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (“HTSUS”), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, titled “Issues and Decision Memorandum for the Final Results of the 2008-2010 Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People’s Republic of China,” dated concurrently with this notice (“Issues and Decision Memorandum”), which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). Access to IA ACCESS is available in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the

internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results:

Based on an analysis of the comments received from interested parties, the Department has made certain changes to the margin calculations. For the final results, the Department has made the following changes:

Changes to Financial Ratio Calculations:

- We treated other income as an offset to selling, general and administrative (“SG&A”) expenses.³
- We capped the foreign exchange gains and losses (net figure) to not more than total financial expenses (i.e., financial expenses, which includes interest expenses and provision and bank charges, cannot be less than zero).⁴ Also, we made a profit adjustment to exclude the amounts of foreign exchange gains above the total financial expenses.
- We included the change in finished goods inventory in the denominators of the SG&A and profit surrogate ratios for the final results.⁵
- We adjusted profit to exclude interest income.
- We excluded the current and deferred income tax expenses from SG&A/interest expense.

Changes to RZBC’s Margin Calculation:

- We adjusted RZBC’s reported by-product offsets by adding the cost of packaging high-protein corn feed and mycelium to the normal value.⁶

³ See Issues and Decision Memorandum at Comment 9.

⁴ See Issues and Decision Memorandum at Comment 10.

⁵ See Issues and Decision Memorandum at Comment 11.

Changes to Yixing Union's Margin Calculation:

- We adjusted Yixing Union's reported by-product offsets by adding the cost of packaging corn feed, mycelium, and calcium sulfate dihydrate to the normal value.⁷

Changes to Surrogate Values:

- We changed the surrogate value used to value the respondents' sulfuric acid input.⁸ For the final results, we have inflated the Indonesian sulfuric acid value used in the preceding less than fair value investigation to the current POR.

Changes to Calculation of Wage Rate:

- For the Preliminary Results, we calculated a wage-rate based upon a simple average of industry-specific wage rates from countries that were both economically comparable and significant producers of comparable merchandise.⁹ However, for the final results, we relied on a single surrogate country to value labor. Specifically, we valued labor using an Indonesian industry-specific wage rate based on labor cost and compensation data from Chapter 5B of the International Labor Organization, under Sub-Classification 24 of the ISIC-Revision 3 standard.¹⁰

Surrogate Country

In the Preliminary Results, the Department stated that it selected Indonesia as the appropriate surrogate country to use in this administrative review for the following reasons: 1) it is a significant producer of comparable merchandise; and 2) it is at a similar level of economic

⁶ See Issues and Decision Memorandum at Comment 6.

⁷ See Issues and Decision Memorandum at Comment 6.

⁸ See Issues and Decision Memorandum at Comment 12.

⁹ See Memorandum to the File regarding "First Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China: Industry-Specific Surrogate Wage Rate and Surrogate Financial Ratio Adjustments," dated July 20, 2011.

¹⁰ See Issues and Decision Memorandum at Comment 7.

development pursuant to section 773(c)(4) of the Act. We used Thai and Indian surrogate values in certain instances where Indonesian data was unavailable. Since the Department did not receive comments on surrogate country selection after the Preliminary Results, we have not made changes with respect to surrogate country selection for the final results.

Separate Rates Determination

In proceedings involving non-market economy (“NME”) countries, the Department holds a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department’s policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.¹¹

The Department determined that RZBC and Yixing Union met the criteria for separate rate status in the Preliminary Results.¹² We have not received any information since issuance of the Preliminary Results that provides a basis for reconsidering this preliminary determination. For the final results, the Department continues to find that the evidence placed on the record of this administrative review by the two respondents demonstrates both de jure and de facto absence of government control with respect to each company’s respective exports of the subject merchandise. Therefore, the Department continues to find that RZBC and Yixing Union meet the criteria for a separate rate.

Export Subsidy Adjustment

Section 772(c)(1)(C) of the Act unconditionally states that U.S. price “shall be increased by the amount of any countervailing duty imposed on the subject merchandise . . . to offset an

¹¹ See Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China, 56 FR 20588 (May 6, 1991), as further developed in Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China, 59 FR 22585 (May 2, 1994).

¹² See Preliminary Results, 76 FR at 34049-50.

export subsidy.”¹³ The Department determined in its final results of the companion countervailing duty administrative review that RZBC’s merchandise benefited from export subsidies.^{14,15} Therefore, we have increased RZBC’s U.S. price for countervailing duties imposed attributable to export subsidies, where appropriate.¹⁶

Final Results of the Review

The Department has determined that the following margins exist for the period November 20, 2008, through April 30, 2010:

EXPORTER	MARGIN
RZBC Co., Ltd./RZBC Imp. & Exp. Co., Ltd./RZBC (Juxian) Co., Ltd.	0%
Yixing Union Biochemical Co., Ltd.	1.11%

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For assessment purposes, we calculated exporter/importer (or customer) specific assessment rates for merchandise subject to this review consistent with 19

¹³ See, e.g., Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review, 75 FR 38076, 38077 (July 1, 2010) and accompanying Issues and Decision Memorandum at Comment 1.

¹⁴ See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Results of Countervailing Duty Administrative Review, dated December 5, 2011 (not yet published).

¹⁵ Yixing Union’s merchandise was not found to have benefitted from export subsidies. Id.

¹⁶ See Memorandum to the File regarding, “Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People’s Republic of China: Analysis of the Final Results Margin Calculation for RZBC Co., Ltd., RZBC Import & Export Co., Ltd., and RZBC (Juxian) Co., Ltd.,” dated December 7, 2011.

CFR. 351.212(b)(1). Where appropriate, we calculated an ad valorem rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting ad valorem rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer (or customer) specific assessment rate is de minimis (*i.e.*, less than 0.50 percent), the Department will instruct CBP to assess that importer's (or customer's) entries of subject merchandise without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2). The Department intends to issue assessment instructions directly to CBP 15 days after the publication of this notice.

Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for RZBC and Yixing Union, the cash deposit rate will be the margins listed above; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 156.87 percent; and (4) for all non-PRC exporters of subject

merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under the APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

We are issuing and publishing the final results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Christian Marsh
Acting Assistant Secretary
for Import Administration

December 7, 2011_
Date

APPENDIX

General Issues

- Comment 1: Whether the Department Should Exclude Water from the Margin Calculation**
- Comment 2: Whether the Department Failed to Inflate the Water Value**
- Comment 3: Certifications in Petitioners' Previous Submissions**
- Comment 4: Double Remedy**
- Comment 5: Zeroing**
- Comment 6: Whether the Department Should Disallow RZBC's and Yixing Union's By-product Offsets**
- Comment 7: Whether to Use an Alternate Source to Calculate the Surrogate Wage Rate and Financial Ratios**
- Comment 8: Whether the Department Should Use Multiple Financial Statements from a Single Company**
- Comment 9: Whether the Department Should Adjust the Financial Ratio Calculation to Account for Interest Income and Other Income**
- Comment 10: Whether the Department Should Adjust the Financial Ratio Calculation to Account for Foreign Exchange Gains and Losses**
- Comment 11: Whether the Department Should Adjust the Financial Ratio Calculation to Account for Finished Goods**

General Surrogate Value Issues

- Comment 12: Surrogate Value for Sulfuric Acid**

Mandatory Respondent Specific Issues

RZBC

- Comment 13: Whether the Department Verified RZBC's Corn Usage Rate**
- Comment 14: Calcium Carbonate and Sulfuric Acid Usage Rates**
- Comment 15: Adjustment of Financial Ratios for Corn and Sulfuric Acid**

Yixing Union

- Comment 16: Whether the Department Verified Yixing Union's Corn Usage Rate**
- Comment 17: Whether the Department Should Deny Yixing Union's Claimed By-Product Offset for Mycelium or, At a Minimum, Reduce the Valuation of this Offset**
- Comment 18: Possible Unreported Inputs in the Chromatographic Process**

